

**EAST END LOT 1, AP
SIX-LOT MAJOR SUBDIVISION**

STAFF REPORT FOR PLANNING BOARD

CASE PLANNER: Benjamin H. Howell *BH*

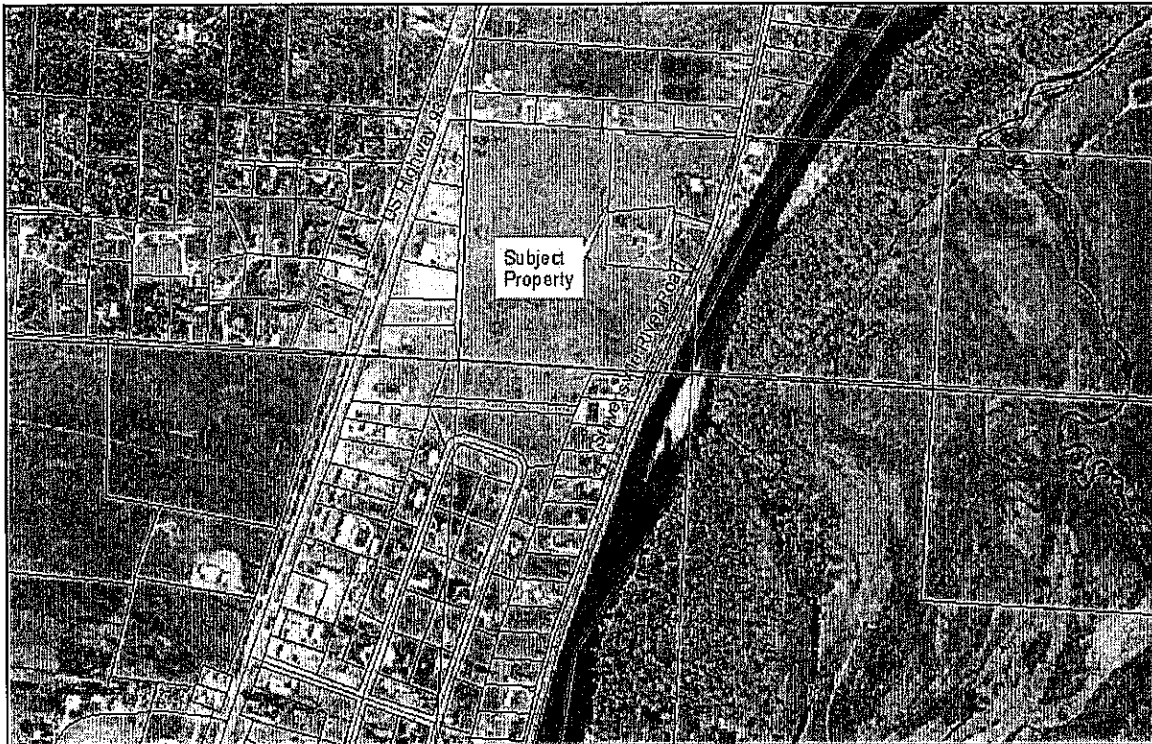
**REVIEWED/
APPROVED BY:** Renee Van Hoven *RN*

**PUBLIC HEARINGS/
MEETINGS:**

RCPB Plat Evaluation:	June 28, 2006
RCPB Public Hearing:	July 19, 2006
Deadline for PB recommendation to BCC:	September 6, 2006
BCC Public Meeting:	9:00 a.m. August 24, 2006
(Unless PB delays decision)	
Deadline for BCC action (60 working days):	September 22, 2006

REPRESENTATIVE: Applebury Survey, 961-3267

LOCATION OF REQUEST: The property is located northwest of Stevensville off Stevensville River Road. (Map 1)



Map 1: Location Map
(Source Data: Ravalli County Planning Department)

**LEGAL DESCRIPTION
OF PROPERTY:**

Lot 1 of the East End Subdivision in the SW ¼, Section 15, T9N,
R20W, P.M.M., Ravalli County, Montana.

**APPLICATION
INFORMATION:**

The subdivision application was determined sufficient on June 20,
2006. Agencies were notified of the subdivision and comments not
included in the application are Exhibits A-1 through A-4 of the staff
report.

LEGAL NOTIFICATION:

A legal advertisement was published in the Ravalli Republic on
Tuesday, July 4, 2006. Notice of the project was posted on the
property and property owners adjacent to the property were notified
by certified mail postmarked June 28, 2006. A public comment letter
is included as Exhibit B-1.

**DEVELOPMENT
PATTERN:**

Subject property	Residential
North	Residential
South	Residential
East	Residential/Bitterroot River
West	Agriculture

RAVALLI COUNTY PLANNING BOARD

JULY 19, 2006

EAST END LOT 1, AP

6-LOT MAJOR SUBDIVISION

RECOMMENDED MOTION

That the East End Lot 1, AP Major Subdivision be **approved**, based on the findings of fact and conclusions of law in the staff report and subject to the conditions in the staff report.

RECOMMENDED MITIGATING CONDITIONS OF APPROVAL FOR THE SUBDIVISION

1. A document entitled "Notifications to Future Property Owners" that includes the following notifications and the attachments listed below shall be included in the submittal of the final plat to the Planning Department and filed with the final plat:

Notification of Proximity to Agricultural Operations. This subdivision is located near existing agricultural activities. Some may find activities associated with normal agricultural activities objectionable and dangerous. (*Effects on Agriculture*)

Limitation of Access onto a County Road. There is an existing "no ingress/egress" restriction located along the Stevensville River Road frontage of the subdivision, excepting the existing approach to the house on Lot 4, which precludes vehicular access onto this County-maintained road. This limitation of access may be lifted or amended per the Covenants (Document # 439685). (*Effects on Local Services*)

Notification of Road Maintenance. Ravalli County, the State of Montana, or any other governmental entity does not maintain the internal subdivision road and therefore does not assume any liability for improper maintenance or the lack thereof. A Road Maintenance Agreement for the internal road was filed with this subdivision and outlines what parties are responsible for road maintenance and under what conditions. (*Effects on Local Services*)

Notification of Utility Easements. Within this subdivision there are utility easements for drainfields. No structure shall be allowed to encroach into or set upon the utility easements. The utility easements shall remain unobstructed and accessible at all times. (*Effects on Local Services*)

Notification of Proximity to a Potential Dam Inundation Area in the Event of a Catastrophic Failure of the Painted Rocks Dam. A portion of this subdivision may be located within the dam inundation area for the Painted Rocks Dam. For more information please contact the State of Montana, Department of Natural Resources and Conservation District, Water Resources Division, Dam Safety Program (48 North Last Chance Gulch, P.O. Box 201601, Helena, Montana, 59620-1621). (*Effects on Public Health and Safety*)

2. Protective covenants for this subdivision shall be submitted with the final plat that include the following provisions:

Living with Wildlife. (See letter from FWP in application packet for the required provisions) (*Effects on Agriculture, Wildlife and Wildlife Habitat and Public Health and Safety*)

Waiver of Protest to Creation of RSID/SID. Owners and their successors in interest waive all rights in perpetuity to protest the creation of a city/rural improvement district for any purpose allowed by law, including, but not limited to a community water system, a community waste water treatment system, and improving and/or maintaining the roads that access the subdivision including related right-of-way, drainage structures, and traffic control signs. *(Effects on Local Services)*

Required Posting of County-Issued Addresses for Lots within this Subdivision. Lot owners shall post County-issued addresses at the intersection of the driveway leading to the primary residence and the accessing road as soon as construction on the residence begins. *(Effects on Public Health and Safety)*

Primary Heat Source. The primary heat source for the newly constructed residences in this subdivision shall be at least 75% efficient. *(Effects on Natural Environment)*

Lighting for New Construction. Full cut-off lighting shall be required for any new construction within this subdivision. A full cut-off fixture means fixtures, as installed, that are designed or shielded in such a manner that all light rays emitted by the fixture, either directly from the lamps or indirectly from the fixture, are projected below a horizontal plane through the lowest point on the fixture where light emitted. The source of light is fully shielded, top and sides, so as not to emit light upwards or sideways, but only allowing light to shine down towards the subject that is to be lighted. Spotlighting of flag poles shall be permitted. *(Effects on Public Health & Safety)*

Control of Noxious Weeds. Lot owners shall control the growth of noxious weeds on their respective lot(s). *(Effects on Natural Environment)*

Radon Exposure. The owner understands and accepts the potential health risk from radon concentrations, which are presently undetermined at this location. Unacceptable levels of radon can be reduced through building design and abatement techniques incorporated into structures. *(Effects on Public Health and Safety)*

Amendment. The covenants filed with the final plat shall state that written Governing Body approval shall be required for amendments to provisions of the covenants listed above, that are required to be included as a condition of subdivision approval. *(Effects on all six criteria)*

3. The internal subdivision road shall be labeled as a public road and utility easement on the final plat. *(Effects on Local Services)*
4. A stop sign shall be installed at the intersection of the internal subdivision road and Highway 93, reviewed by the Road and Bridge Department, and approved by the Planning Department prior to final plat approval. *(Effects on Local Services and Public Health and Safety)*
5. The final plat shall show the existing no ingress/egress zone along the Stevensville River Road frontage of the subdivision, excepting the existing approach for the house on Lot 4, and shall include the document number for the existing covenants (Document # 439685). *(Effects on Local Services)*
6. The applicants shall provide for an additional five feet of easement along the Stevensville River Road frontage of the subdivision on the final plat. *(Effects on Local Services)*

7. The subdividers shall include an RSID/SID waiver in a notarized document filed with the subdivision plat that states the following: Acceptance of a deed for a lot within this subdivision shall constitute the assent of the owners and any successors in interest to any future RSID/SID, based on benefit, for a community wastewater system, community water system, or upgrading roads leading to or within the subdivision, including but not limited to paving, curbs and gutters, non-motorized transportation facilities, street widening, and drainage facilities. *(Effects on Local Services)*
8. The applicants shall provide place an encumbrance of \$250 per lot to the Stevensville School District upon first conveyance, including lease or rent, on the final plat. *(Effects on Local Services)*
9. Prior to final plat approval, the applicant shall install a water supply consistent with the Uniform Fire Code, subject to the review and approval of the Stevensville Fire District, or contribute \$500 per lot to the Stevensville Fire District and provide evidence of that contribution with the final plat application. *(Effects on Local Services & Public Health and Safety)*
10. The subdividers shall provide evidence with the final plat submittal that they have applied for County-issued addresses for each lot within this subdivision. *(Effects on Public Health and Safety)*
11. The applicant shall show the drainfield easements on Lots 3 and 4 on the final plat. *(Effects on Local Services)*

INTRODUCTION

The East End Lot 1, AP Major Subdivision is a six-lot subdivision located on approximately 6.44 acres, northwest of the Town of Stevensville. The property is approximately 500 feet from the Lee Metcalf National Wildlife Refuge, which is located across the Bitterroot River from the subdivision. The property has one house, which is located on proposed Lot 4 and will remain on the property. The proposed subdivision is close to existing services and residential development.

Staff is recommending conditional approval of the subdivision.

SUBDIVISION REPORT

COMPLIANCE WITH PRIMARY SUBDIVISION REVIEW CRITERIA

CRITERION 1: EFFECTS ON AGRICULTURE

Findings of Fact:

1. The property is not currently being used for agriculture.
2. This property is located approximately two miles northwest of the Town of Stevensville off Stevensville River Road.
3. There are no Prime Farmland Soils or Farmland of Statewide Importance associated with this property.
4. The property is located in an area where there is a mix of agricultural and residential uses. To mitigate impacts on nearby agricultural practices, a notification of agricultural operations shall be filed with the final plat and the covenants shall include a provision requiring owners to control domestic pets. (Conditions 1 and 2)

Conclusion of Law:

With the mitigating condition, impacts of this subdivision on surrounding agricultural practices should be minimized.

CRITERION 2: EFFECTS ON AGRICULTURAL WATER USER FACILITIES

Finding of Fact:

1. According to the application and DNRC, the property has water rights from Kootenai Creek, but the applicant states that they will be left with Lot 4. (*Exhibit A-4*)
2. There is no irrigation infrastructure on or near the property to get water to the property.

Conclusion of Law:

There will be no impacts to agricultural water user facilities.

CRITERION 3: EFFECTS ON LOCAL SERVICES

Findings of Fact:

1. Stevensville River Road is a County-maintained road that currently provides access to Lot 4, with a 50-foot right-of-way along the subdivision frontage. To mitigate impacts on local services, the applicant shall provide for an additional five feet of easement along the Stevensville River Road frontage. (Condition 6)
2. There is an existing no ingress/egress zone that precludes the applicant from building an internal road off Stevensville River Road. The applicant has tried to work with the neighbor to lift the no ingress/egress zone, but has not been successful. The access to Lot 4 is not included in the no ingress/egress zone. The existing no ingress/egress zone shall be shown on the final plat labeled with the Document # of the covenants, and a notification of the no ingress/egress zone placed in the Notifications Document. (Conditions 1 and 5)
3. Because of the no ingress/egress zone on Stevensville River Road, the internal road is proposed off Highway 93, which is a State-maintained highway. The applicant is required to provide an approved approach permit from MDT.
4. The applicant has received easements from Lot A1 of the Northland subdivision to the northwest and the Mickens and Glaze property to the west. There is an easement through Lot A1 of the Reed Meadows subdivision to the west to Mickens and Glaze, but not to the applicant. In discussions with the applicant, he stated that he is under contract to purchase that property, and the Deputy County Attorney stated in an email that that would be sufficient. (*Exhibit A-1*)

5. All lots in the subdivision are proposed to be served by an internal road meeting minor local road standards, and the County's Professional Engineering Advisor has reviewed the road plans. Submittal of final grading and drainage plans, an approved road name petition for the internal subdivision road, and a Road Certification, as certified by a professional engineer, are requirements of final plat approval. Installation of all infrastructure improvements is also required to be completed prior to final plat approval, which includes construction of the road and stormwater drainage facilities and installation of road name signs for the internal subdivision road. A General Discharge Permit for Stormwater Associated with Construction Activity from DEQ may also be required.
6. To mitigate impacts on the road system and public safety, the applicant shall install a stop sign at the intersection of the internal road and Highway 93. (Condition 4)
7. A Road Maintenance Agreement was proposed for the internal subdivision road and is required to be submitted with the final plat application. A notification of the Road Maintenance Agreement shall be included in the Notifications Document. (Condition 1)
8. In order to ensure that the public has usage of the road within this subdivision, the internal subdivision road shall be dedicated as a public road and utility easement on the final plat. (Condition 3)
9. Individual wells and wastewater treatment systems are proposed for the lots and units within this subdivision.
10. The drainfields for Lots 4 and 5 are located on Lots 3 and 4. To mitigate impacts on local services, the utility easements for these drainfields shall be shown on the final plat as proposed and a notification of the easements be included in the Notifications Document. (Condition 1 and 11)
11. To mitigate potential impacts of this subdivision on any possible future public water, sewer system, or improvements to the road system, an RSID/SID waiver filed with the final plat shall address these services/facilities. (Conditions 2 and 7)
12. Bitterroot Disposal provides services to this site.
13. The subdivision questionnaire indicates the parkland dedication for this subdivision is required to be 0.32 acres and cash-in-lieu of parkland dedication is proposed. The Department of Revenue indicated the unimproved and unsubdivided value of the property is \$9,177 per acre, which results in a cash donation of \$2,936.64 (*Exhibit A-2*). Cash-in-lieu of parkland dedication shall be paid as a requirement of final plat approval.
14. In a comment letter dated 10-26-04, Mr. John H. Ormiston, Chairman of the Ravalli County Park Board, stated that the Park Board concurs with cash in lieu of parkland dedication (Application).
15. In a comment letter dated July 5, 2006 the Stevensville School District asked for a contribution of \$5,000 per lot, and the applicant is proposing to contribute \$250 per lot to the Stevensville School District upon first conveyance of each lot. To mitigate impacts of the subdivision on the Stevensville School District, the applicants shall place an encumbrance of \$250 per lot to the Stevensville School District upon first conveyance, including lease or rent, on the final plat. (*Exhibit A-3*) (Condition 8)
16. The Stevensville Fire District has not provided comments. The applicant shall provide the water supply requirements under the Uniform Fire Code or a \$500 per lot contribution, which will mitigate impacts on local services and public health and safety. (Condition 9)
17. The Ravalli County Sheriff's Office provides law enforcement services to this area.
18. Public services are adequate to serve this subdivision.

Conclusion of Law:

With the mitigating conditions of approval and requirements of final plat approval, impacts of the subdivision on local services will be minimized.

CRITERION 4: EFFECTS ON THE NATURAL ENVIRONMENT

Findings of Fact:

1. The property is located approximately 100 feet west of the Bitterroot River, outside of the mapped floodplain.
2. The property is located approximately 500 feet west of the Lee Metcalf National Wildlife Refuge. The Refuge was notified of the proposal, and no comments have been received to date.
3. Individual wells and wastewater treatment systems are proposed to serve the lots. A Certificate of Subdivision Plat Approval from the Montana Department of Environmental Quality has been provided and is required to be filed with the final plat.
4. To mitigate air pollution resulting from home heating emissions, the protective covenants filed with the final plat shall state that the primary heat source for any newly constructed residences must be at least 75% efficient (Condition 2).
5. An approved noxious weed and vegetation control plan is required to be filed with the final plat. According to MCA 7-22-2152, any person proposing a development that needs state or local approval and that results in the potential for noxious weed infestation within a weed district shall notify the weed board at least 15 days prior to activity. Consequently, 15 days prior to activities requiring a revegetation plan, such as road construction, the plan shall be submitted to the weed board for approval by the board. To mitigate impacts on the natural environment, a noxious weed control provision shall be included in the protective covenants filed with the final plat for this subdivision (Condition 2).

Conclusions of Law:

Impacts from this subdivision on the natural environment will be minimized with the mitigating conditions and requirements of final plat approval.

CRITERION 5: EFFECTS ON WILDLIFE AND WILDLIFE HABITAT

Findings of Fact:

1. The property is not located within the FWP-identified big game winter range.
2. The property is approximately 500 feet from the Lee Metcalf National Wildlife Refuge. The Refuge was notified of the proposal, and no comments have been received to date.
3. The property was identified as an area with Sensitive Species, but because the property is relatively flat and has no nesting trees, the applicants have requested and received a waiver from a Sensitive Species Report.
4. To mitigate any impacts on wildlife and wildlife habitat, the covenants shall address living with wildlife, as recommended by FWP. (application) (Condition 2)

Conclusion of Law:

With the condition of approval, the proposed subdivision will have a minimal impact on wildlife.

CRITERION 6: EFFECTS ON PUBLIC HEALTH AND SAFETY

Findings of Fact:

1. To mitigate impacts on public health and safety, the subdivider shall apply for County-issued addresses for each lot and a provision requiring property owners to post County-issued addresses at their driveways shall be included in the covenants. (Conditions 2 and 11)
2. The conditions that address the Rural Fire District's usual recommendation will mitigate impacts on public health and safety. (Conditions 9 and 10)
3. With the recommended conditions and requirements of final plat approval, access to the subdivision will be adequate for public health and safety. (Conditions 1, 2 and 4) (*Effects on Local Services*)

4. Individual wells and septic systems are proposed for lots within this subdivision. (*Natural Environment*)
5. To mitigate the impacts of light pollution stemming from new construction, the protective covenants shall include a provision requiring full cut-off lighting with the exception of flag poles. (Condition 2)
6. There is a prevalence of radon in the County and to mitigate impacts on public health and safety, the covenants shall include a statement regarding radon exposure. (Condition 2)
7. A portion of the property may be located within the Painted Rocks Dam Inundation Area. The mapping of dam inundation areas is based on coarse data and should only be used for general planning purposes. To inform future property owners and to mitigate potential impacts of the subdivision on public health and safety, a notification of the dam inundation area shall be included in the Notifications Document filed with the final plat. (Condition 1)

Conclusion of Law:

The mitigating conditions and requirements of final plat approval address potential impacts of this subdivision on public health and safety.

COMPLIANCE WITH:

1) THE SURVEY REQUIREMENTS PROVIDED FOR IN PART 4 OF M.C.A. 76-3.

Finding of Fact:

The Seal of a Professional Land Surveyor or Engineer is required on all final plats, which states that the subdivision complies with part 4 of M.C.A. 76-3.

Conclusion of Law:

This proposal meets the survey requirements or conditions have been required to bring the proposal into compliance.

2) THE LOCAL SUBDIVISION REGULATIONS PROVIDED FOR IN PART 5 OF M.C.A. 76-3.

Finding of Fact:

Subdivisions are required to comply with the local subdivision regulations provided for in part 5 of M.C.A. 76-3.

Conclusion of Law:

The developer has submitted a plan which complies with the requirements of local subdivision regulations or conditions have been required that will bring the plan into compliance.

3) THE LOCAL SUBDIVISION REVIEW PROCEDURE PROVIDED FOR IN THE RAVALLI COUNTY SUBDIVISION REGULATIONS

Findings of Fact:

1. Subdivisions are required to comply with the local subdivision review procedure provided for in the Ravalli County Subdivision Regulations.
2. A decision of the governing body rejecting or approving a proposed subdivision may be appealed to the district court within thirty (30) days of such decision. The petition shall specify the grounds upon which the appeal is made. An appeal may be made by the subdivider; a landowner with a property boundary contiguous to the proposed subdivision or a private landowner with property within the unincorporated area of the county that can show a likelihood of material injury to the landowner's property or its value; a first class municipality if the subdivision is within three miles of its limits, a second class municipality if a subdivision is within two miles of its limits, a third class municipality or town if the subdivision is within one mile of its limits. An aggrieved party means a person who can demonstrate a specific personal

and legal interest, as distinguished from a general interest, who has been or is likely to be specially and injuriously affected by the decision.

Conclusion of Law:

This development plan proposal has followed the necessary application procedure and has been reviewed within the procedures provided in Chapter 3 of the Ravalli County Subdivision Regulations.

CONSISTENCY WITH EXISTING ZONING AND COVENANTS

Findings of Fact:

1. The property is not located within a zoning district.
2. There are existing covenants on the property. (Application) The proposal appears to be consistent with the covenants.

Conclusion of Law:

Zoning does not apply to this property and the proposal is in compliance with the covenants.

PROVISION OF EASEMENTS FOR UTILITIES

Findings of Fact:

1. The plat indicates existing utility easements are located along Stevensville River Road. Utility easements are required to be shown on the final plat.
2. According to the application, the proposed subdivision will be served by Northwestern Energy and Qwest Telephone. Utility Certificates are required for final plat approval.

Conclusion of Law:

Utility services are available to the subdivision.

PROVISION OF LEGAL AND PHYSICAL ACCESS

Findings of Fact:

1. Lot 4 of the subdivision has legal and physical access onto Stevensville River Road.
2. Access to Lots 1 through 3, Lot 5, and Lot 6 is proposed via Highway 93, which is a State-maintained highway, and the internal subdivision road. (*Local Services*)

Conclusion of Law:

With the mitigating conditions and requirements of final plat approval, the proposal meets physical and legal access requirements.

EXHIBIT A-1

Ben Howell

From: James McCubbin
Sent: Tuesday, May 09, 2006 10:04 AM
To: Ben Howell
Subject: RE: East End (Kwapy) Subdivision follow-up question

No attachment, but I remember it OK.

So long as he owns it prior to final plat, it should be OK. I should review all of the documents with you, but it sounds like you're good to go for sufficiency.

-----Original Message-----

From: Ben Howell
Sent: Tuesday, May 09, 2006 9:58 AM
To: James McCubbin
Subject: East End (Kwapy) Subdivision follow-up question

James, Mr. Kwapy says that he is under contract for deed to the Mickens/Glaze property, so therefore he has use of the easement granted to Mickens/Glaze by Lois Howard (Lot A1 of the Reed Meadows subdivision on Highway 93). I have attached a copy of the reduced plat and the easement in question to hopefully "jog" your memory. If he is under contract for deed, do we need a copy of that information? I appreciate all your help. Thanks again!

Benjamin H. Howell
Planner I
Ravalli County Planning Department
215 S. 4th Street, Suite F
Phone (406) 375-6530
Fax (406) 375-6531
bhowell@ravallicounty.mt.gov
Please note the Planning Department's new Phone & Fax numbers

RECEIVED
MAR 28 2006

Ravalli

County
MONTANA

PLANNING DEPARTMENT
215 S 4TH ST
HAMILTON, MT 59840
406.375.6530; 406.375.6531

EXHIBIT A-2
RECEIVED

MAR 30 2006
IC-06-03-489
Ravalli County Planning Dept.

MEMORANDUM
OG-06-03-388

To: Debbie Reesman, Department of Revenue
From: Benjamin H. Howell, Ravalli County Planning Department *BH*
Date: March 27, 2006
Subject: Tax Information Request

Information Requested By: April 7, 2006
Subdivision Name: East End Lot 1, AP Subdivision
Parcel Number: 408800
Geocode Number: 1764-15-3-01-03-0000
Number of Lots: 6 Lots on 6.44 Acres

Cash-in-Lieu: \$ 9177⁰⁰ per unsubdivided and unimproved acre

$\$9177^{00} \times 0.32 = \$2,936.64$

Comments:

Original Cash-in-Lieu request for this subdivision was requested and completed January 6, 2005 for 6 lots, with a Cash-in-Lieu amount of \$9,177.00 per unsubdivided and unimproved acre. Please provide an updated Cash-in-Lieu amount. Attached are a vicinity map and a reduced copy of the plat.

Ben, as the DOR's assessment date for our current 6 year cycle is Jan 1, 2002, there is no change in the CIL amount. Please call if you have questions.

Signature

Debra K. Reesman

Date

3/29/06

Superintendent
Dennis Kimzey
Ext. 138



Stevensville Public Schools

300 Park Avenue
Stevensville, MT 59870
Phone: 406-777-5481
Fax: 406-777-1381

EXHIBIT A-3



Clerk/Business
Manager
Bill Schiele
Ext. 139

RECEIVED

JUL 06 2006
1C-06-07-1071
Ravalli County Planning Dept.

Benjamin Howell
Ravalli County Planning Department
215 South 4th Street
Suite F
Hamilton, Montana 59840

July 5, 2006

Mr. Howell,

Thank you for sending information on the East End 6.44 acre Subdivision. The six lots mentioned will receive school bus service from our Stevensville School District via a designated pick-up/drop zone. And, the impact of possibly nine additional students will not have an adverse affect on our student population. The financial impact per student is \$5,000.

Thanks Benjamin. Best wishes for a great summer.

Sincerely Yours,

A handwritten signature in cursive script, appearing to read "Dennis Kimzey".

Dennis Kimzey, Superintendent
Stevensville Public Schools

DEPARTMENT OF EXHIBIT A-4
RESOURCES AND CONSERVATION
MISSOULA WATER RESOURCES REGIONAL OFFICE



BRIAN SCHWEITZER
GOVERNOR

1610 S. 3RD STREET W., SUITE 103
P.O. BOX 5004

STATE OF MONTANA

(406) 721-4284
FAX (406) 542-1496

MISSOULA, MONTANA 59806-5004

March 8, 2005

Terry Nelson
Applebury Survey
914 HWY 93
Victor, Mt 59875

RECEIVED

MAR 10 2005

Beavall Co. Planning Office

IC-05-03-465

RE: Robert Kwapy Amended Subdivision Plat
Section 15 T9N R20W

Dear Mr. Nelson:

I am responding to your request for review and comment on the above mentioned amended subdivision plat.

This parcel appears to have a water right for irrigation (76H 215136). A copy of the water right abstract is attached. If the water right is to remain with the property and the use shared among the new owners 76-3-504(h)(i) MCA requires that 1) the water rights are transferred to a single entity for use by the landowners; or 2) establish a landowner's water use agreement administered through a single entity. The other option is to sever the water right from the site. If the place of use of this water right is to be moved to another parcel, the water right owners must file an Application To Change a Water Right (Form 606) with this office.

If you have any questions, I can be contacted at 721-4284.

Respectfully,

A handwritten signature in black ink, appearing to read "Bill Schultz", with a long horizontal line extending to the right.

Bill Schultz
Regional Manager

Cc: Karen Hughes

STATE OF MONTANA
DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION

1424 9TH AVENUE P.O. BOX 201601 HELENA, MONTANA 59620-1601

GENERAL ABSTRACT

Water Right Number: 76H 215136-00 STATEMENT OF CLAIM
Version: 1 - ORIGINAL RIGHT
Status: ACTIVE
Late Claim: B

Owners: DAVID B COOK
4079 STEVI RIVER RD
STEVENSVILLE, MT 59870

ROBERT C KWAPY
1525 34TH ST
PO BOX 2503
MISSOULA, MT 59806

CAROL M BARBER
1525 34TH ST
PO BOX 2503
MISSOULA, MT 59806

Priority Date: JUNE 1, 1887
Enforceable Priority Date: JUNE 30, 1973

Type of Historical Right: DECREED

CLAIM FILED LATE 06/20/96 . AS MANDATED BY SECTION 85-2-221(3), MCA, THIS CLAIM IS SUBORDINATE, AND THEREFORE JUNIOR, TO ALL FEDERAL AND INDIAN RESERVED WATER RIGHTS AND ALL VALID TIMELY FILED CLAIMS BASED ON STATE LAW.

Purpose (use): IRRIGATION

Maximum Flow Rate: 100.98 GPM

Maximum Volume: THE TOTAL VOLUME OF THIS WATER RIGHT SHALL NOT EXCEED THE AMOUNT PUT TO HISTORICAL AND BENEFICIAL USE.

Maximum Acres: 9.00

Source:

Source Name: KOOTENAI CREEK

Source Type: SURFACE WATER

Point of Diversion and Means of Diversion:

<u>ID</u>	<u>Govt Lot</u>	<u>Qtr</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1		SW	NESW	17	9N	20W RAVALLI

Diversion Means: HEADGATE

DITCH NAME: NO. 7 DITCH

Period of Diversion: APRIL 1 to OCTOBER 19

Purpose (Use): IRRIGATION

Irrigation Type: FLOOD

Climatic Area: 3 - MODERATE

Period of Use: APRIL 1 to OCTOBER 19

Place of Use:

<u>ID</u>	<u>Acres</u>	<u>Govt Lot</u>	<u>Qtr</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1	2.00		NW	SESW	15	9N	20W RAVALLI
2	7.00		NE	SWSW	15	9N	20W RAVALLI
Total:	9.00						

Remarks:

CLAIM FILED LATE 06/20/96 . THIS CLAIM MAY BE SUBORDINATE, AND THEREFORE JUNIOR, TO CERTAIN PERMITS AND RESERVATIONS OF WATER. SEE SECTION 85-2-221(3), MCA.

WATER RIGHT OWNERSHIP UPDATE RECEIVED 12/04/2003.

EXHIBIT B-1

7/7/06

JUL 07 2006
10-06-07-1078
Ravalli County Planning Dept.

TO - RAVALLI COUNTY PLANNING DEPT

FROM - KATJUE ADYAMA

4059 STEVENSVILLE RIVER RD.

STEVENSVILLE MT 59870

RE: EAST END SUBDIVISION LOT 1 AP (KWAPY)

THIS LETTER IS TO OFFER COMMENT AND CONCERN ABOUT KWAPY'S PROPOSED SUBDIVISION.

- THESE LOTS ARE UNDER 1 ACRE, DUE TO STEVI RIVER COURT ENCOMPASSING THE LOTS AREA.

- I FEEL THIS NUMBER OF SEPTIC + WELL SYSTEMS WILL NEGATIVELY EFFECT MY DOMESTIC WELL SYSTEM BY ^{POLLUTION} ~~POLLUTION~~ + WATER DRAW DOWN.

- IT WILL ~~NEGATIVELY~~ NEGATIVELY DELTE AGRICULTURAL LAND IN THE AREA AND THE NATURAL ENVIRONMENT.

- THE REASON FOR THE NEW ROAD (STEV RIVER CT) IS TO ACCESS FUTURE DEVELOPMENT WITH 1/4 ACRE LOTS BY KWAPY TO THE SOUTH WEST OF LOTS 1-6.

- MY IRRIGATION WATER RIGHTS WILL BE NEGATIVELY EFFECTED BY THIS SUBDIVISION.

IN SHORT, I AM ADIMATELY AGAINST KWAPY'S PROPOSED DEVELOPMENT.

RESPECTFULLY SUBMITTED

KATJUE ADYAMA

ph - 777-1451

